

2009 DRAFTING REQUEST

Bill

Received: **01/05/2009**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-7329**

By/Representing: **Weidner**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters: **csundber**

Subject: **Tax, Individual - income
Econ. Development - bus. dev.**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Weidner, BB0323 -

Topic:

Defer taxation on reinvested capital gains; new business ventures

Instructions:

See attached. Allow deferral of capital gains if invested in a Qualified New Business Venture

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 01/05/2009 csundber 01/06/2009	jdyer 01/08/2009		_____ _____ _____ _____			State Tax
/1			mduchek 01/08/2009	_____ _____	lparisi 01/08/2009		State Tax
/2	mshovers 01/22/2009	jdyer 01/23/2009	jfrantze 01/23/2009	_____ _____	cduerst 01/23/2009		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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/?	mshovers 01/05/2009 csundber 01/06/2009	jdye 01/08/2009					State Tax
/1			mduchek 01/08/2009		lparisi 01/08/2009		

Handwritten notes:
Under "Reviewed" for /?: *2/23 jld*
Under "Typed" for /1: *1/23*
Under "Proofed" for /1: *1/23*

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Defer taxation on reinvested capital gains; new business ventures ✓

Instructions:

See attached. Allow deferral of capital gains if invested in a Qualified New Business Venture

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/?	mshovers	1/7 jld	MD	MD BS			

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Capital Gains Re-investment Initiative
- Tracking Code: BB0323
- SBO team: General Government and Economic Development
- SBO analyst: Jenna Weidner
 - Phone: x 6-7329
 - Email: jenna.weidner@wisconsin.gov
- Agency acronym: COM
- Agency number: 143
- Priority (Low, Medium, High): High

Intent: To permit roll over of capital gains for investment in Qualified New Business Ventures (QNBVs).

Under current Wisconsin law, individuals may exclude 60% of net long-term capital gains. The remaining 40% is subject to tax as ordinary income. Under the Governor's proposal, individuals would be allowed a limited 100% capital gains exclusion of up to \$10 million for long-term capital gains reinvested in a Wisconsin business.

An individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation may exclude the capital gain, not to exceed \$10 million, realized from the sale of any asset held more than one year if the claimant

- 1) immediately deposits the gain in a segregated account in a financial institution,
- 2) invests all of the proceeds in a Qualified New Business Venture (QNBV) within 180 days, and
- 3) notifies DOR that the claimant will not declare the gain.

A business may be designated as a Qualified New Business Venture if it meets the following criteria. The business must be engaged in, or must have committed to engage in, one of the following:

- Developing a new product or business process
- Manufacturing, agriculture or processing or assembly products and conducting research and development.
- Businesses engaged in real estate development, insurance, banking, lending, lobbying, political consultation, professional services provided by attorneys, accountants, business consultants, physicians or health care consultants, wholesale or retail trade, leisure, hospitality, transportation or construction are not eligible for the program.
- Qualified New Business Ventures will be certified by Commerce on an annual basis. Businesses wishing to continue their certification in the program must submit verification information annually.

The basis of the investment shall be its cost minus the gain generated by the sale of the original asset. If a claimant claims the subtraction, the claimant may not use that gain to net the claimant's gains and losses as the claimant could do if the claimant did not claim the subtraction. This would prohibit an investor from also claiming tax credits under 2003 Act 255 for the investment that the individual is subtracting from their income as a capital gain not realized. This change should be effective for tax years beginning after 12-31-08.

In: 1/6/09

2007 - 2008 LEGISLATURE

- 1319/1
LRB-0697/1
MES:jif
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jld
RMNR

DOA...
2007 BILL

LPS-
PWF
please

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1 AN ACT *to amend* 71.01 (13) and 71.01 (14); and *to create* 71.05 (24) of the
2 statutes; **relating to:** creating a procedure for certain taxpayers to defer
3 taxation on certain reinvested capital gains.✓

head

TAXATION
INCOME TAXATION

subhead

up to 10
million of
\$10,000,000

Analysis by the Legislative Reference Bureau

Under current law, there is an income tax exclusion for individuals for 60 percent of the net capital gains realized from the sale of assets held for at least one year.

for taxable years beginning after December 31, 2008,

Under this bill, an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation (claimant) may elect to defer the payment of income taxes on a percentage of the gain realized from the sale of any asset held more than one year (original asset), other than gain realized from the sale of an asset that was obtained in a tax-free exchange of capital assets or the sale of property purchased as the result of an involuntary conversion, if the claimant completes a number of requirements. The allowable percentage of gain that may be deferred under the bill starts at 4 percent in taxable year 2008, and increases by another 4 percent each year until it reaches 40 percent in taxable year 2017.

Under the bill, the claimant must place the gain from the original asset in a segregated account in a financial institution, must purchase another capital asset (replacement asset) within 90 days after the sale of the original asset that generated the gain, and must notify the Department of Revenue (DOR) on a form prepared by DOR that the claimant is deferring the payment of income tax on the gain from the

*

all of the proceeds
invest in a qualified new
business venture (ANBV)
as certified by the department
of commerce (commerce)

BILL

original asset because the proceeds have been reinvested. The ~~cost of the~~ ^{amount of the} investment ~~replacement asset~~ must be equal to or greater than the gain generated by the sale of the original asset.

The bill also specifies that the basis of the ~~replacement asset~~ ^{investment} shall be ~~its cost~~ ^{the amount of the} minus the gain generated by the sale of the original asset. If a claimant defers the payment of income taxes on the gain generated by the sale of the original asset, the claimant may not use that gain to net the claimant's gains and losses as the claimant could do if the claimant did not elect to defer the payment of taxes on the gain.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the ^{state} fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.01 (13) of the statutes is amended to read:

71.01 (13) "Wisconsin adjusted gross income" means federal adjusted gross income, with the modifications prescribed in s. 71.05 (6) to (12), (19) and, (20), and (24).

SECTION 2. 71.01 (14) of the statutes is amended to read:

71.01 (14) "Wisconsin net operating loss" of persons other than corporations means "federal net operating loss" adjusted as prescribed in s. 71.05 (6) (a) and (b), (7) to (12) and, (19) to, (21), and (24), except s. 71.05 (6) (b) 9., except that no deductions allowable on schedule A for federal income tax purposes are allowable.

SECTION 3. 71.05 (24) of the statutes is created to read:

71.05 (24) INCOME TAX DEFERRAL: LONG-TERM [✓] CAPITAL ASSETS. (a) In this subsection:

1. "Claimant" means an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation.

BILL

1 "Financial institution" has the meaning given in s. 69.30 (1) (b). ✓

2 3. "Long-term capital gain" means the gain realized from the sale of any asset
3 held more than one ✓ year, other than gain realized from any of the following:

4 a. ✓ The sale of an asset that was obtained in a tax-free exchange of capital
5 assets.

6 b. ✓ The sale of property purchased as the result of an involuntary conversion.

7 (b) Subject to par. (e) a claimant may subtract from federal adjusted gross
8 income any amount of a long-term capital gain if the claimant does all of the
9 following:

10 1. Immediately deposits the gain into a segregated account in a financial
11 institution.

12 2. Within ¹⁸⁰ ~~90~~ days after the sale of the asset that generated the gain, ^{invests in} ~~purchases~~
13 another capital asset of equal or greater value using all of the proceeds in the account
14 described under subd. 1. ^{in a qualified new business venture} ✓

15 3. After ^{making the investment} ~~purchasing a capital asset~~ as described under subd. 2., immediately
16 notifies the department, on a form prepared by the department, that the claimant
17 will not declare on the claimant's income tax return the gain described under subd.

18 1. because the claimant has reinvested the capital gain as described under subd. 2. ✓

19 (c) The basis of the ^{investment} ~~purchased capital asset~~ described in par. (b) 2. shall be
20 calculated by subtracting the gain described in par. (b) 1. from the ^{amount} ~~cost~~ of the
21 ^{investment} ~~purchased asset~~ described in par. (b) 2. ✓

22 (d) If a claimant defers the payment of income taxes on a capital gain under this
23 subsection, ✓ the claimant may not use the gain described under par. (b) 1. ✓ to net
24 capital gains and losses, as described under sub. (10) (c). ✓

INS
3-6
seep. 5

For taxable years beginning after December 31,
2006,
up to \$10 million or \$10,000,000,

BILL**SECTION 3**

1 (e) 1. For taxable years beginning after December 31, 2007, and before January
2 1, 2009, the amount calculated under par. (b) that may be subtracted from federal
3 adjusted gross income shall be multiplied by 4 percent.

4 2. For taxable years beginning after December 31, 2008, and before January
5 1, 2010, the amount calculated under par. (b) that may be subtracted from federal
6 adjusted gross income shall be multiplied by 8 percent.

7 3. For taxable years beginning after December 31, 2009, and before January
8 1, 2011, the amount calculated under par. (b) that may be subtracted from federal
9 adjusted gross income shall be multiplied by 12 percent.

10 4. For taxable years beginning after December 31, 2010, and before January
11 1, 2012, the amount calculated under par. (b) that may be subtracted from federal
12 adjusted gross income shall be multiplied by 16 percent.

13 5. For taxable years beginning after December 31, 2011, and before January
14 1, 2013, the amount calculated under par. (b) that may be subtracted from federal
15 adjusted gross income shall be multiplied by 20 percent.

16 6. For taxable years beginning after December 31, 2012, and before January
17 1, 2014, the amount calculated under par. (b) that may be subtracted from federal
18 adjusted gross income shall be multiplied by 24 percent.

19 7. For taxable years beginning after December 31, 2013, and before January
20 1, 2015, the amount calculated under par. (b) that may be subtracted from federal
21 adjusted gross income shall be multiplied by 28 percent.

22 8. For taxable years beginning after December 31, 2014, and before January
23 1, 2016, the amount calculated under par. (b) that may be subtracted from federal
24 adjusted gross income shall be multiplied by 32 percent.

BILL

INS
5-6 ✓1
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9. For taxable years beginning after December 31, 2015, and before January 1, 2017, the amount calculated under par. (b) that may be subtracted from federal adjusted gross income shall be multiplied by 36 percent.

10. For taxable years beginning after December 31, 2016, the amount calculated under par. (b) that may be subtracted from federal adjusted gross income shall be multiplied by 40 percent.

(END) ✓

INS 3-6

4. "Qualified new business venture" means a business certified by the department of commerce under A. 560.208. ✓

(end ins 3-6)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1319/lins
CTS:.....

Insert CS-A:

Under the bill, a business may be certified by Commerce if the business is engaged in developing a new product or business process, manufacturing, agriculture, or processing or assembling products and conducting research and development, except that Commerce may not certify a business engaged in certain activities including real estate development, insurance, banking, lobbying, wholesale or retail sales, leisure, hospitality, transportation, or construction.

Insert 5-6:

SECTION 1. 560.208 of the statutes is created to read:


560.208 Qualified new business ventures. (1) The department of

commerce shall implement a program to certify qualified new business ventures for purposes of s. 71.05 (24). A business desiring certification shall submit an application to the department in each taxable year for which the business desires certification. Subject to sub. (2), a business may be certified under this subsection, and may maintain such certification, only if the business is engaged in one of the following:

(a) Developing a new product or business process.

(b) Manufacturing, agriculture, or processing or assembling products and conducting research and development.

(2) The department may not certify a business under sub. (1) if the business is engaged in real estate development, insurance, banking, lending, lobbying, political consultation, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail sales, leisure, hospitality, transportation, or construction.



- 1 (3) (a) The department[✓] shall maintain a list of businesses certified under sub.
2 (1)[✓] and shall permit public access to the lists through the department's[✓] Internet
3 ~~website.~~^Δ
4 (b) The department of commerce[✓] shall notify the department of revenue[✓] of
5 every certification issued under sub. (1)[✓] and the date on which a certification under
6 sub. (1)[✓] is revoked or expires.[✓]

(end ins 5-6)

Shovers, Marc

From: Weidner, Jenna M - DOA [Jenna.Weidner@wisconsin.gov]
Sent: Thursday, January 22, 2009 9:37 AM
To: Shovers, Marc
Cc: Pawasarat, Jane - DOA; Lillethun, Chad W - DOA
Subject: Changes requested for draft #1319, Re: capital gains reinvestment

Hi Marc,
 We've asked the Governor's office and Department of Revenue for feedback on this draft. Could you please update the draft to address the following concerns?
 Thank you,
 Jenna

- Change effective date to taxable years beginning after December 31, 2010, to defer the fiscal impacts.
- Section 2 allows the amount of the deferred gain to be used in determining the Wisconsin net operating loss (NOL). Therefore, if a person deferred gain of \$10,000,000, that person would be subtracting the gain for Wisconsin income tax purposes and would also be able to deduct that \$10,000,000 as an NOL over the next 15 years. Because the deferral is not a business loss, it should not be able to be deducted as an NOL.
- Section 71.05(24)(a)3. "Long-term capital gain" means the gain realized from the sale of any asset held more than one year..." It is unclear if this is to mean both capital assets and assets used in a trade or business. If it also applies to assets used in a trade or business, it may apply to the portion of the gain that is treated as ordinary income or only to the portion treated as capital gain for federal purposes. This should be clarified. Please draft it to only apply to amounts treated as long-term capital gain for federal income tax purposes.
- Allowing the deferral of gain on assets used in a trade or business will add a great deal of complexity and record keeping for the taxpayer. For example, for federal tax purposes, the gain on the sale of an asset used in a trade or business may be treated as ordinary income, capital gain income, or it may offset losses on other assets used in a trade or business. If the gain is deferred due to the purchase of another depreciable asset used in a trade or business, the taxpayer will have a different basis for federal and Wisconsin tax purposes. This means separate depreciation schedules will be needed for Wisconsin. When this asset is later sold, the taxpayer will have to determine the portion of the gain that was previously treated as ordinary income or used to offset losses as this portion would not qualify for the 60% capital gain exclusion. (Sec. 71.05(6)(b)9 provides the capital gain exclusion for capital gain as computed under the IRC. The amount treated as ordinary income or used to offset losses is not capital gain as computed under the IRC.)
- A definite time should be specified in 71.05(24)(b)1 and 3 instead of "immediately." In the draft, please allow the form the claimant uses to notify the department could be attached to the Wisconsin income tax return for the year instead of "immediately" notifying the department.

Jenna Weidner

Executive Policy and Budget Analyst
 Wisconsin State Budget Office, DOA-DEBF
 101 East Wilson Street
 Madison, WI 53702
 (608)266-7329
jenna.weidner@wisconsin.gov

01/22/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1319/1
MES:jld:md

DOA:.....Weidner, BB0323 - Defer taxation on reinvested capital gains; new business ventures

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

✓

don't gen

- 1 AN ACT ...; **relating to:** creating a procedure for certain taxpayers to defer
2 taxation on certain reinvested capital gains.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under current law, there is an income tax exclusion for individuals for 60 percent of the net capital gains realized from the sale of assets held for at least one year.

Under this bill, for taxable years beginning after December 31, 2008, an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation (claimant) may elect to defer the payment of income taxes on up to \$10,000,000 of the gain realized from the sale of any asset held more than one year (original asset), ~~other than gain realized from the sale of an asset that was obtained in a tax-free exchange of capital assets or the sale of property purchased as the result of an involuntary conversion~~, if the claimant completes a number of requirements.

Under the bill, the claimant must place the gain from the original asset in a segregated account in a financial institution, must invest all of the proceeds in a qualified new business venture (QNBV) as certified by the Department of Commerce

that is treated as a long-term gain under the Internal Revenue Code

capital ✓

2010 ✓

2

NS The claimant must send the *form* to *DOR* with the claimant's income tax return for the year to which the claim relates.

(Commerce), within 180 days after the sale of the original asset that generated the gain, and must notify DOR on a form prepared by DOR that the claimant is deferring the payment of income tax on the gain from the original asset because the proceeds have been reinvested. The amount of the investment must be equal to or greater than the gain generated by the sale of the original asset. Under the bill, a business may be certified by Commerce if the business is engaged in developing a new product or business process, manufacturing, agriculture, or processing or assembling products and conducting research and development, except that Commerce may not certify a business engaged in certain activities including real estate development, insurance, banking, lobbying, wholesale or retail sales, leisure, hospitality, transportation, or construction.

The bill also specifies that the basis of the investment shall be the amount of the investment minus the gain generated by the sale of the original asset. If a claimant defers the payment of income taxes on the gain generated by the sale of the original asset, the claimant may not use that gain to net the claimant's gains and losses as the claimant could do if the claimant did not elect to defer the payment of taxes on the gain.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.01 (13) of the statutes is amended to read:

2 71.01 (13) "Wisconsin adjusted gross income" means federal adjusted gross
3 income, with the modifications prescribed in s. 71.05 (6) to (12), (19) and, (20), and
4 (24). ✓

5 ~~**SECTION 2.** 71.01 (14) of the statutes is amended to read:~~

6 ~~71.01 (14) "Wisconsin net operating loss" of persons other than corporations
7 means "federal net operating loss" adjusted as prescribed in s. 71.05 (6) (a) and (b),
8 (7) to (12) and, (19) to, (21), and (24), except s. 71.05 (6) (b) 9., except that no
9 deductions allowable on schedule A for federal income tax purposes are allowable.~~

10 **SECTION 3.** 71.05 (24) of the statutes is created to read:

1 71.05 (24) INCOME TAX DEFERRAL; LONG-TERM CAPITAL ASSETS. (a) In this
2 subsection:

3 1. "Claimant" means an individual; an individual partner or member of a
4 partnership, limited liability company, or limited liability partnership; or an
5 individual shareholder of a tax-option corporation.

6 2. "Financial institution" has the meaning given in s. 69.30 (1) (b).

7 3. "Long-term capital gain" means the gain realized from the sale of any asset
8 held more than one year *that is treated as a long-term gain under the Internal Revenue Code.*
Capital

9 ~~a. The sale of an asset that was obtained in a tax-free exchange of capital
10 assets.~~

11 ~~b. The sale of property purchased as the result of an involuntary conversion.~~

12 4. "Qualified new business venture" means a business certified by the
13 department of commerce under s. 560.208.

14 (b) For taxable years beginning after December 31, ~~2008~~ *2010*, a claimant may
15 subtract from federal adjusted gross income any amount, up to \$10,000,000, of a
16 long-term capital gain if the claimant does all of the following:

17 1. ~~Immediately~~ deposits the gain into a segregated account in a financial
18 institution.

19 2. Within 180 days after the sale of the asset that generated the gain, invests
20 all of the proceeds in the account described under subd. 1. in a qualified new business
21 venture.

22 3. After making the investment as described under subd. 2., ~~immediately~~
23 notifies the department, on a form prepared by the department, that the claimant
24 will not declare on the claimant's income tax return the gain described under subd.

25 1. because the claimant has reinvested the capital gain as described under subd. 2.

The form shall be sent to the department along with the claimant's income tax return for the year to which the claim relates.

1 (c) The basis of the investment described in par. (b) 2. shall be calculated by
2 subtracting the gain described in par. (b) 1. from the amount of the investment
3 described in par. (b) 2.

4 (d) If a claimant defers the payment of income taxes on a capital gain under this
5 subsection, the claimant may not use the gain described under par. (b) 1. to net
6 capital gains and losses, as described under sub. (10) (c).

7 **SECTION 4.** 560.208 of the statutes is created to read:

8 **560.208 Qualified new business ventures.** (1) The department shall
9 implement a program to certify qualified new business ventures for purposes of s.
10 71.05 (24). A business desiring certification shall submit an application to the
11 department in each taxable year for which the business desires certification. Subject
12 to sub. (2), a business may be certified under this subsection, and may maintain such
13 certification, only if the business is engaged in one of the following:

14 (a) Developing a new product or business process.

15 (b) Manufacturing, agriculture, or processing or assembling products and
16 conducting research and development.

17 (2) The department may not certify a business under sub. (1) if the business
18 is engaged in real estate development, insurance, banking, lending, lobbying,
19 political consultation, professional services provided by attorneys, accountants,
20 business consultants, physicians, or health care consultants, wholesale or retail
21 sales, leisure, hospitality, transportation, or construction.

22 (3) (a) The department shall maintain a list of businesses certified under sub.
23 (1) and shall permit public access to the lists through the department's Internet Web
24 site.

(b) The department of commerce shall notify the department of revenue of every certification issued under sub. (1) and the date on which a certification under sub. (1) is revoked or expires.

4 (END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1319/2

MES:jld:jf

DOA:.....Weidner, BB0323 - Defer taxation on reinvested capital gains; new business ventures

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

- 1 AN ACT ...; **relating to:** creating a procedure for certain taxpayers to defer
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Under this bill, for taxable years beginning after December 31, 2010, an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation (claimant) may elect to defer the payment of income taxes on up to \$10,000,000 of the gain realized from the sale of any capital asset held more than one year (original asset) that is treated as a long-term gain under the Internal Revenue Code, if the claimant completes a number of requirements.

Under the bill, the claimant must place the gain from the original asset in a segregated account in a financial institution, must invest all of the proceeds in a qualified new business venture (QNBV) as certified by the Department of Commerce (Commerce), within 180 days after the sale of the original asset that generated the gain, and must notify DOR on a form prepared by DOR that the claimant is deferring

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The bill also specifies that the basis of the investment shall be the amount of the investment minus the gain generated by the sale of the original asset. If a claimant defers the payment of income taxes on the gain generated by the sale of the original asset, the claimant may not use that gain to net the claimant's gains and losses as the claimant could do if the claimant did not elect to defer the payment of taxes on the gain.

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10 individual shareholder of a tax-option corporation.

11 2. "Financial institution" has the meaning given in s. 69.30 (1) (b).

1 3. "Long-term capital gain" means the gain realized from the sale of any capital
2 asset held more than one year that is treated as a long-term gain under the Internal
3 Revenue Code.

4 4. "Qualified new business venture" means a business certified by the
5 department of commerce under s. 560.208.

6 (b) For taxable years beginning after December 31, 2010, a claimant may
7 subtract from federal adjusted gross income any amount, up to \$10,000,000, of a
8 long-term capital gain if the claimant does all of the following:

9 1. Deposits the gain into a segregated account in a financial institution.

10 2. Within 180 days after the sale of the asset that generated the gain, invests
11 all of the proceeds in the account described under subd. 1. in a qualified new business
12 venture.

13 3. After making the investment as described under subd. 2., notifies the
14 department, on a form prepared by the department, that the claimant will not
15 declare on the claimant's income tax return the gain described under subd. 1. because
16 the claimant has reinvested the capital gain as described under subd. 2. The form
17 shall be sent to the department along with the claimant's income tax return for the
18 year to which the claim relates.

19 (c) The basis of the investment described in par. (b) 2. shall be calculated by
20 subtracting the gain described in par. (b) 1. from the amount of the investment
21 described in par. (b) 2.

22 (d) If a claimant defers the payment of income taxes on a capital gain under this
23 subsection, the claimant may not use the gain described under par. (b) 1. to net
24 capital gains and losses, as described under sub. (10) (c).

25 **SECTION 3.** 560.208 of the statutes is created to read:

560.208 Qualified new business ventures. (1) The department shall implement a program to certify qualified new business ventures for purposes of s. 71.05 (24). A business desiring certification shall submit an application to the department in each taxable year for which the business desires certification. Subject to sub. (2), a business may be certified under this subsection, and may maintain such certification, only if the business is engaged in one of the following:

(a) Developing a new product or business process.

(b) Manufacturing, agriculture, or processing or assembling products and conducting research and development.

(2) The department may not certify a business under sub. (1) if the business is engaged in real estate development, insurance, banking, lending, lobbying, political consultation, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail sales, leisure, hospitality, transportation, or construction.

(3) (a) The department shall maintain a list of businesses certified under sub. (1) and shall permit public access to the lists through the department's Internet Web site.

(b) The department of commerce shall notify the department of revenue of every certification issued under sub. (1) and the date on which a certification under sub. (1) is revoked or expires.

(END)